

REMARKS**Claims rejections under 35 USC 103**

The Examiner has rejected claims 58-63, 66-70, 74 and 77 as being unpatentable over Yeager in view of Sellers, Wilcox and Khan 6,401,206. The Applicant respectfully notes that the burden is on the Examiner to show specifically how claims 58-63, 66-70, 74 and 77 can be rejected by the combination of the cited patents and their specific elements.

References MPEP 2143-2143-2143.03 outline decisions pertinent to the criterion for valid rejections under USC 103. These references and the patent statutes describe three basic criterion which the Examiner must meet: 1) some suggestion or motivation in the cited references to combine the cited references, 2) there must be a reasonable expectation of success, 3) the prior art references, or the references when combined, must teach each and every of the claim limitations. The teaching or suggestion to make the cited combination and the reasonable expectation of success must both be found in the prior art and not based on the applicant's disclosure. Further, the patent statutes do not allow the Examiner to view the Applicant's art with impermissible hindsight in regard to combining said prior art references.

It is noted that the Examiner previously cited Yeager, Sellers, Wilcox and 5, 615,268 Bisbee as combined prior art. The Applicant notes that the Examiner is now citing the combined prior art of Yeager, Sellers, Wilcox and Khan 6,401,206.

Amended claims 58 and 68 are amended and pending in the application and are submitted for review.

Claims 58 and 68 are independent claims. These claims have been amended to further specify and distinguish the art claimed within this application. These amendments have been also made to further distinguish the art in this application from the prior art cited, including Khan. As previously described in the opening remarks of this response the Examiner is interpreting the prior art of Khan in such a way as to conclude that Khan (column 4 line 35-63, col. 13 ln 33-50 and claims 2, 5, and 24) is teaching "means for recognizing and authenticating the storage device via a unique digital identifier stored in the storage device, when the storage device is ported to the computer device."

The Applicant notes that the Examiner has not accurately cites the Applicant's claim and element. The Examiner has left out the term bodily worn storage device three times in the citation of the applicant's element. The term bodily worn storage device has distinctive meaning and distinguishes the art disclosed from the prior art. In addition, after careful review of Khan, Khan is describing software and method for creating a portable digital identity of an individual (person). Khan describes methods for creating and using said portable digital identity of the individual. Khan does describe storing the portable digital identity of the individual in computer disks, smart cards and other portable storage devices, but Khan does not teach in any way, shape or form, linking or using said digital identity of the individual as a specific identifier of the bodily worn storage device. The identifier described by Khan is always specific to the individual (person) and not specific to the storage device that carries the individual's digital identity. Khan

specifically describes a digital identity (identifier) made up of a composite of the person's name, address, biometric characteristics, and other personal data and information unique to said person. This composite identifier described by Khan is always linked to the person and can be substituted for a person's handwritten signature and also used in lieu of a person's digital signature (to speed up digital transactions). In no way, shape or form does Khan teach that the person's digital identifier is in any way linked to a specific portable device (smart card, computer disk, etc..) or used as a means of authenticating and recognizing said portable device. On the contrary Khan specifically teaches that the person's digital identifier is independent of any one storage device and is portable and can be moved to ANY suitable storage device. This is a significant and distinct difference between the prior art and the art describe in this application. The art that I am teaching in this application, and specifically described by the amended element in claims 58 and 68 teaches a "means for recognizing and authenticating said bodily worn storage device, via a unique digital identifier unique to said bodily worn storage device and stored in said bodily worn storage device, when said bodily worn storage device is ported to said computer devices." As one can see from this element I am teaching recognition and authentication of the storage device via a unique identifier unique to the storage device. I am not teaching recognition or authentication of a specific individual or person. Conversely, Khan is teaching recognition and authentication of a person (individual) and is not teaching recognition and authentication of a specific storage device. The digital identifier that Khan describes is independent of any given storage device and he

makes numerous references to his digital identifier being portable, independent of a storage device and being able to be applied to documents and other applications independent of, and away from, the given storage device. On the contrary this application is teaching a digital identifier unique to the storage device, dependently linked to the storage device, and included within the storage device. Also Khan specifically describes in his figure 5 and the detailed description of figure 5 (col 8 ln 57-68 and col 9 ln 1-46) how the digital identifier of the individual can be used (applied to a document). In this description individual must consciously go through answering a series of personal questions in order for the system described to recognize and authenticate the user and his digital identifier. In contrast, I specifically describe in my specification (see the first paragraph of the "Background of the Invention" section) how my portable storage device can be used and recognized even if the user of the device is unconscious or severely stricken by a medical condition. It would be impossible, given the art that Khan teaches in figure 5, for an unconscious or incapacitated person to go through a series of personal questions (especially in a medical emergency) in order to have their digital identity (identifier) recognized and authenticated by the system Khan describes. In a busy emergency room, ambulance or other medical setting, when a person is unconscious and time is of the essence, having a digital identifier specific to the storage device (containing medical records) and recognized and authenticated by porting to a docking station, is a much preferred (and distinctly different) method than that described by Khan. Also, the detailed description figure 3 in my specification clearly

describes users of the bodily worn storage device in military combat who are stricken or incapacitated and need immediate medical attention. It would be impossible to imagine this scenario where the incapacitated user would have use the system described by Kahn (answering a series of personal questions) in order to have their digital Identifier recognized and authenticated.

The applicant's specification also contains the citation:

"a means, through unique software encryption and recognition techniques, to interface with unique smart cards and/ or unique computer disks which have permanently imbedded software security identification markers. This type of a marker and recognition system allows for only authorized types of disks and card, which have the unique embedded digital markers, to be used and recognized by the system software for security and anti fraud purposes. "

It is clear from the above citation that the applicant is describing a system wherein the bodily worn storage devices have digital identifiers specific to the storage device and stored within the storage device, and said digital identifiers are not specifically linked to a person or individual. Said storage devices linked to the computer system and software would automatically recognize the storage device as authorized for use in the computer system, particularly in the case of a medical emergency when the individual is stricken or unconscious. In summary the art described by Khan is significantly and distinctly different than the art described in this application. Khan is focused on creating digital identifiers linked specifically to a person, which are independent of the storage device that holds them. My application is teaching art that specifically links a digital identifier to the storage device and is independent of an individual person. Therefore, Khan does

not teach the element of claims 58 and 68 as described by the Examiner to support 35 USC 103 claims rejections. In addition, there is no motivation or expectation of success within Khan to have modified his art to teach the art described by this application and its elements.

Claims 58 and 68 are being rejected under 35 USC 103 as being unpatentable over Yeager, in light of Wilcox, Sellers and Khan. For at least the above reasons the combined prior art of Yeager in light of Wilcox, Sellers, and Khan do not teach each and every element of claims 58 and 68 to support an obviousness rejection under 35 USC 103. Therefore, the rejection of claims 58 and 68 under 35 USC 103 as being unpatentable over Yeager in view of Wilcox, Sellers and Khan should be withdrawn.

Claims 59-63 and 66-67 depend from claim 58. Therefore, the reasons set forth above distinguishing claim 58 apply equally here and are incorporated herein. Thus, for at least the above identified reasons Yeager in light of Seller, Wilcox and Khan does not teach each and every element of claims 59-63 and 66-67 to support an obviousness rejection under 35 USC 103. Therefore, the rejection of claims 59-63 and 66-67 under 35 USC 103 as being unpatentable over Yeager, in view of Wilcox, Sellers and Khan should be withdrawn.

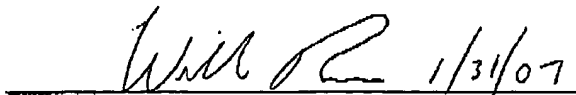
Claims 70, 72, 74, and 77 are being rejected under 35 USC 103 as being unpatentable over Yeager in light of Wilcox, Sellers and Khan. Claims 70, 72, 74 and 77 depend from claim 68. Therefore, the reasons set forth above distinguishing claim 68 apply equally here and are incorporated herein. Thus, for at least the above identified reasons Yeager in view of Wilcox, Sellers, and Khan does not teach each and every element of claims 70, 72, 74, and 77 to support an obviousness rejection under 35 USC 103. Therefore, the rejection of claims 70, 72, 74 and 77 under 35 USC 103 as being unpatentable over Yeager in view of Wilcox, Sellers and Khan should be withdrawn.

Claims 64 and 65 depend from claim 58. Therefore, the reasons set forth above distinguishing claim 58 apply equally here and are incorporated herein. Thus, for at least the above identified reasons Yeager in light of Seller, Wilcox and Khan does not teach each and every element of claims 64 and 65 to support an obviousness rejection under 35 USC 103. Therefore, the rejection of claims 64 and 65 under 35 USC 103 as being unpatentable over Yeager, in view of Wilcox, Sellers and Khan should be withdrawn.

Claims 71, 73, 75 and 76 are being rejected under 35 USC 103 as being unpatentable over Yeager in light of Wilcox, Sellers and Khan. Claims 71, 73, 75 and 76 depend from claim 68. Therefore, the reasons set forth above distinguishing claim 68 apply equally here and are incorporated herein. Thus, for at least the above identified reasons Yeager in view of Wilcox, Sellers, and Khan does not teach each and every element of claims 71, 73, 75, and 76 to support an obviousness rejection under 35 USC 103. Therefore, the rejection of claims 71, 73, 75 and 76 under 35 USC 103 as being unpatentable over Yeager in view of Wilcox, Sellers and Khan should be withdrawn.

The applicant respectfully submits that all 103 rejections to the claims have been addressed by virtue of these amended claims. The applicant respectfully requests that the examiner allow amended claims 58-77 as presented herein.

The applicant respectfully submits that a petition for expedited examination for this application was granted in 2004, and the applicant respectfully requests an expedited examination of this response.

 1/31/07

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